REMARKS

Claims 1-22 are pending in this application. Claims 1, 8 and 11 have been amended. Claims 23-27 are withdrawn due to compliance with an earlier election requirement and have been canceled.

The rejections of claims 1-14 under 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter of the current invention have been avoided by the proffered amendments.

A review of the other grounds (35 U.S.C. 102(b) and 103(a)) of the final rejection indicates that the Examiner has set forth exactly the same arguments based on the same reading of the cited prior art references.

The applicants again respectfully traverse the Examiner's position that part 27 of Schmidt should be construed as a structural equivalent of the solid film claimed in the present invention.

The Examiner first stated part 27 is made of a solid material as opposed to a gas or liquid, thus teaching that part 27 is a "solid." Further, the Examiner relied on figure 2 of Schmidt to teach that part 27 is "directly bonded" to the outer surface. Finally, the Examiner states that "it is seen in the figure 2 the part 27 can be taken as a film because of the relation of the thin part 27 on the ceramic block 25."

It is the applicants' position that in the absence of a positive teaching in the specification other than the drawings, the relation of the thin part 27 on the ceramic block 25 exclusively obtained from the drawings is not a valid evidence for establishing the part 27 as a thin film. The applicants would like to draw the Examiner's attention to MPEP Chapter 2100, section 2125, paragraph 2, which recites: "When the reference does not

disclose that drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value. See *Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 222 F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000) (The disclosure gave no indication that the drawings were drawn to scale. "[I]t is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue.")" Nowhere in Schmidt is it disclosed that the drawings are made to scale. The fact that part 27 is shown as a thinner layer compared to the ceramic block 25, in the absence of any support in the specification other than the drawings, does not necessarily suggest that part 27 should be construed as being thinner than the ceramic block 25, let alone being as thin as a film as commonly understood in the art.

The same paragraph in the MPEP (Section 2125, paragraph 2) further states that "However, the description of the article pictured can be relied on, in combination of the drawings, for what they would reasonably teach one of ordinary skill in the art." With respect to the different meanings of pad versus film, the applicants wish to incorporate by reference their remark as set forth in their amendment of October 17, 2006. Schmidt teaches the part 27 as a pad formed from an elastomeric material. In contrast, the instant application teaches a film. See Ladedes, Daniel, N., McGraw-Hill Dictionary of Scientific and Technical Terms, McGraw-Hill Book Company, New York (1974), pages 547 and 1066 (copies enclosed in the amendment filed on October 17, 2006). The dictionary defines a pad as "a layer of material used as a cushion or for protection." In the same dictionary, a film is defined as "A thin membraneous skin... A thin, flexible, transparent sheet of plastic, adhesive, rubber or other material." It can be reasonably

expected that an artisan possessing ordinary skills in the art is unlikely to associate a cushion with a membraneous thin flexible sheet.

Therefore, it is the applicants' position that Schmidt fails to teach the film as claimed in the present invention. Therefore, the rejection under 35 U.S.C. 102(b) as being anticipated by Schmidt should be withdrawn.

As argued in the amendment filed October 17, 2006, the rejection of claims 3-5 and 7-22 under 35 U.S.C. 103(a) over Schmidt and further in view of Middletown relies on the alleged teaching of the film by Schmidt and the rejection would not survive if such an alleged teaching is found baseless. As argued above, this reading lacks adequate support and the rejection of claims 3-5 and 7-22 under 35 U.S.C. 103(a) should therefore be withdrawn.

In view of the above, it is respectfully requested that the Examiner's rejections be withdrawn and the claims indicated as allowable to the applicant.

Respectfully Submitted
Attorneys for Applicant

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Date

Evelyn M. Sommer
Registration No. 19,603
Joshua S. Broitman
Registration No. 38,006
Glenn F. Ostrager
Registration No. 29,963
OSTRAGER CHONG FLAHERTY &
BROITMAN, PC
250 Park Avenue, Suite 825
New York, NY 10177-0899
Phone: (212) 681-0600
Customer No. 64722